

Office of the Secretary of the Treasury

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new payment agency in order to continue salary offset.

§ 5.13 How will Treasury entities use administrative wage garnishment to collect a Treasury debt from a debtor's wages?

(a) Treasury entities are authorized to collect debts from a debtor's wages by means of administrative wage garnishment in accordance with the requirements of 31 U.S.C. 3720D and 31 CFR 285.11. This part adopts and incorporates all of the provisions of 31 CFR 285.11 concerning administrative wage garnishment, including the hearing procedures described in 31 CFR 285.11(f). Treasury entities may use administrative wage garnishment to collect a delinquent Treasury debt unless the debtor is making timely payments under an agreement to pay the debt in installments (see § 5.6 of this part). At least thirty (30) days prior to initiating an administrative wage garnishment, Treasury entities will send notice to the debtor in accordance with the requirements of § 5.4 of this part, including the requirements of § 5.4(a)(10) of this part. For Treasury debts referred to the Financial Management Service under § 5.9 of this part, Treasury entities may authorize the Financial Management Service to send a notice informing the debtor that administrative wage garnishment will be initiated and how the debtor may request a hearing as described in § 5.4(a)(10) of this part. If a debtor makes a timely request for a hearing, administrative wage garnishment will not begin until a hearing is held and a decision is sent to the debtor. See 31 CFR 285.11(f)(4). If a debtor's hearing request is not timely, Treasury entities may suspend collection by administrative wage garnishment in accordance with the provisions of 31 CFR 285.11(f)(5). All travel expenses incurred by the debtor in connection with an in-person hearing will be borne by the debtor.

(b) This section does not apply to Federal salary offset, the process by which Treasury entities collect debts from the salaries of Federal employees (see § 5.12 of this part).

§ 5.14 How will Treasury entities report Treasury debts to credit bureaus?

Treasury entities shall report delinquent Treasury debts to credit bureaus in accordance with the provisions of 31 U.S.C. 3711(e), 31 CFR 901.4, and the Office of Management and Budget Circular A-129, "Policies for Federal Credit Programs and Nontax Receivables." For additional information, see Financial Management Service's "Guide to the Federal Credit Bureau Program," which may be found at <http://www.fms.treas.gov/debt>. At least sixty (60) days prior to reporting a delinquent debt to a consumer reporting agency, Treasury entities will send notice to the debtor in accordance with the requirements of § 5.4 of this part. Treasury entities may authorize the Financial Management Service to report to credit bureaus those delinquent Treasury debts that have been transferred to the Financial Management Service under § 5.9 of this part.

§ 5.15 How will Treasury entities refer Treasury debts to private collection agencies?

Treasury entities will transfer delinquent Treasury debts to the Financial Management Service to obtain debt collection services provided by private collection agencies. See § 5.9 of this part.

§ 5.16 When will Treasury entities refer Treasury debts to the Department of Justice?

(a) *Compromise or suspension or termination of collection activity.* Treasury entities shall refer Treasury debts having a principal balance over \$100,000, or such higher amount as authorized by the Attorney General, to the Department of Justice for approval of any compromise of a debt or suspension or termination of collection activity. See §§ 5.7 and 5.8 of this part; 31 CFR 902.1; 31 CFR 903.1.

(b) *Litigation.* Treasury entities shall promptly refer to the Department of Justice for litigation delinquent Treasury debts on which aggressive collection activity has been taken in accordance with this part and that should not be compromised, and on which collection activity should not be suspended

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or terminated. See 31 CFR part 904. Treasury entities may authorize the Financial Management Service to refer to the Department of Justice for litigation those delinquent Treasury debts that have been transferred to the Financial Management Service under § 5.9 of this part.

§ 5.17 Will a debtor who owes a Treasury debt be ineligible for Federal loan assistance or Federal licenses, permits or privileges?

(a) *Delinquent debtors barred from obtaining Federal loans or loan insurance or guaranties.* As required by 31 U.S.C. 3720B and 31 CFR 901.6, Treasury entities will not extend financial assistance in the form of a loan, loan guarantee, or loan insurance to any person delinquent on a debt owed to a Federal agency. This prohibition does not apply to disaster loans. Treasury entities may extend credit after the delinquency has been resolved. See 31 CFR 285.13 for standards defining when a “delinquency” is “resolved” for purposes of this prohibition.

(b) *Suspension or revocation of eligibility for licenses, permits, or privileges.* Unless prohibited by law, Treasury entities should suspend or revoke licenses, permits, or other privileges for any inexcusable or willful failure of a debtor to pay a debt. The Treasury entity responsible for distributing the licenses, permits, or other privileges will establish policies and procedures governing suspension and revocation for delinquent debtors. If applicable, Treasury entities will advise the debtor in the notice required by § 5.4 of this part of the Treasury entities’ ability to suspend or revoke licenses, permits or privileges. See § 5.4(a)(16) of this part.

§ 5.18 How does a debtor request a special review based on a change in circumstances such as catastrophic illness, divorce, death, or disability?

(a) *Material change in circumstances.* A debtor who owes a Treasury debt may, at any time, request a special review by the applicable Treasury entity of the amount of any offset, administrative wage garnishment, or voluntary payment, based on materially changed circumstances beyond the control of the debtor such as, but not limited to,

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catastrophic illness, divorce, death, or disability.

(b) *Inability to pay.* For purposes of this section, in determining whether an involuntary or voluntary payment would prevent the debtor from meeting essential subsistence expenses (costs incurred for food, housing, clothing, transportation, and medical care), the debtor shall submit a detailed statement and supporting documents for the debtor, his or her spouse, and dependents, indicating:

- (1) Income from all sources;
- (2) Assets;
- (3) Liabilities;
- (4) Number of dependents;
- (5) Expenses for food, housing, clothing, and transportation;
- (6) Medical expenses; and
- (7) Exceptional expenses, if any.

(c) *Alternative payment arrangement.* If the debtor requests a special review under this section, the debtor shall submit an alternative proposed payment schedule and a statement to the Treasury entity collecting the debt, with supporting documents, showing why the current offset, garnishment or repayment schedule imposes an extreme financial hardship on the debtor. The Treasury entity will evaluate the statement and documentation and determine whether the current offset, garnishment, or repayment schedule imposes extreme financial hardship on the debtor. The Treasury entity shall notify the debtor in writing of such determination, including, if appropriate, a revised offset, garnishment, or payment schedule. If the special review results in a revised offset, garnishment, or repayment schedule, the Treasury entity will notify the appropriate agency or other persons about the new terms.

§ 5.19 Will Treasury entities issue a refund if money is erroneously collected on a debt?

Treasury entities shall promptly refund to a debtor any amount collected on a Treasury debt when the debt is waived or otherwise found not to be owed to the United States, or as otherwise required by law. Refunds under this part shall not bear interest unless required by law.